

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Corey Jawan Robinson, # 294233,)	C/A No. 5:12-502-JMC-KDW
)	
Plaintiff,)	
)	
v.)	REPORT AND RECOMMENDATION
)	<i>for partial disposition</i>
Cpt. T. Clark; Ms. D. Bailey, Classification; Lt. J.)		
Williams; Officer S. Mosher; Sgt. J. Aranda; Lolita M.)		
Lee; Sherisse D. Birch; Loretta Aiken; Warden Wayne)		
McCabe; IGC B. J. Thomas; Ofc. J. Middleton; Ofc.)		
Jeremy Johnson; Nurse Luanne Mauney; Nurse J. Scott;)		
Ann Hallman; Ofc. Tabitha Ford; Ms. S. Jones; South)		
Carolina Department of Corrections,)	
)	
Defendants.)	
_____)	

Corey Jawan Robinson (“Plaintiff”), proceeding pro se, brings this § 1983 civil action alleging violations of his constitutional rights. Plaintiff is an inmate at the Lieber Correctional Institution, and he files this action *in forma pauperis* under 28 U.S.C. § 1915. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), and Local Civil Rule 73.02(B)(2) DSC, the undersigned is authorized to review such complaints for relief and submit findings and recommendations to the district judge. For the reasons that follow, the undersigned recommends that the court should dismiss Defendant South Carolina Department of Corrections (“SCDC”) without prejudice.

Discussion

Plaintiff filed this action pursuant to 28 U.S.C. § 1915, the *in forma pauperis* statute. This statute authorizes the district court to dismiss a case if it is satisfied that the action “fails to state a claim on which relief may be granted,” is “frivolous or malicious,” or “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). As a pro se litigant, Plaintiff’s pleadings are accorded liberal construction and held to a less stringent standard than

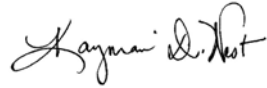
formal pleadings drafted by attorneys. *See Erickson v. Pardus*, 551 U.S. 89 (2007) (*per curiam*). However, even under this less stringent standard, a portion of this pro se pleading is subject to summary dismissal. The requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. *See Weller v. Dep't of Social Servs.*, 901 F.2d 387 (4th Cir. 1990).

Section 1983 “‘is not itself a source of substantive rights,’ but merely provides ‘a method for vindicating federal rights elsewhere conferred.’” *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (quoting *Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979)). A civil action under § 1983 allows “a party who has been deprived of a federal right under the color of state law to seek relief.” *City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 707 (1999). To state a claim under § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). It is well settled that only persons may act under color of state law, and, therefore, a defendant in a § 1983 action must qualify as a person. Defendant SCDC is a department, group of buildings, or a facility. Inanimate objects such as buildings, facilities, and grounds cannot act under color of state law. *Jones v. Lexington Cnty. Det. Ctr.*, 586 F. Supp. 2d 444, 451 (D.S.C. 2008) (finding Lexington County Detention Center is a physical institution that is not subject to liability under § 1983). Thus, Plaintiff has not alleged a cognizable claim pursuant to § 1983 against SCDC.

Recommendation

For the foregoing reasons, it is recommended that the court dismiss Defendant SCDC without prejudice. At this time, the case is proceeding against the remaining defendants.

IT IS SO RECOMMENDED.

A handwritten signature in black ink, appearing to read "Kaymani D. West". The signature is fluid and cursive, with the first name being the most prominent.

March 26, 2012
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge

The parties are directed to note the important information in the attached

“Notice of Right to File Objections to Report and Recommendation.”

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
Post Office Box 2317
Florence, South Carolina 29503

Failure to timely file specific written objections to this Report and Recommendation

will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).